

Senate File 494 - Introduced

SENATE FILE 494
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1041)

A BILL FOR

1 An Act relating to the foreclosure of a real estate mortgage.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 654.5, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. a. A special execution shall issue under such conditions
4 as the decree may prescribe, and the sale under the special
5 execution is subject to redemption as in cases of sale under
6 general execution unless the plaintiff has elected foreclosure
7 without redemption under section 654.20.

8 b. A successful bidder at the sale who is not affiliated
9 with the judgment creditor may, with the written consent of the
10 mortgagor, elect to receive, in lieu of a sheriff's deed or
11 sheriff's certificate of sale, an assignment without recourse
12 by operation of law of all of the judgment creditor's in rem
13 interest in the judgment, the underlying indebtedness net of
14 any deficiency judgment, and any policies of title, property,
15 and any other similar insurance or guaranty owned by the
16 judgment creditor relating to the affected property. Except
17 for a sale that is subject to redemption, an assignment under
18 this section shall bar junior interests in the property as if
19 an assignment had not been elected. If the sale is subject to
20 redemption, the period to redeem shall commence on the date of
21 the sale resulting in the assignment. An assignment under this
22 section shall not affect the right of the judgment creditor to
23 enforce a deficiency judgment against other property of the
24 judgment debtor, nor shall it bar a subsequent rescission or
25 execution against the property on the judgment assigned by the
26 assignee.

27 Sec. 2. Section 654.4B, subsection 2, paragraph b, Code
28 2011, is amended to read as follows:

29 b. This subsection is repealed July 1, ~~2011~~ 2012.

30 EXPLANATION

31 This bill relates to the foreclosure of a real estate
32 mortgage.

33 Current law relating to foreclosure with redemption provides
34 a statutory right of redemption to the debtor of the foreclosed
35 property which allows the debtor to reclaim the debtor's

1 foreclosed property by making payment in full of the unpaid
2 loan plus costs (Code section 628.3). This right of redemption
3 also applies to creditors, under some circumstances, if the
4 debtor does not exercise the debtor's right to redeem (Code
5 sections 628.5 and 628.8). Once the redemption period expires
6 (generally, one year from the day of the sale) without a
7 party redeeming the property, the purchaser is entitled to a
8 sheriff's deed which conveys title only as it existed when the
9 mortgage was executed.

10 The bill allows a successful bidder at a sheriff's sale
11 who is not affiliated with the judgment creditor to elect to
12 receive, with the written consent of the mortgagor, in lieu
13 of a sheriff's deed or sheriff's certificate of sale, an
14 assignment of all of the judgment creditor's in rem interest in
15 the judgment, the underlying indebtedness net of any deficiency
16 judgment, and any policies of title, property, and any other
17 similar insurance or guaranty owned by the judgment creditor
18 relating to the affected property. Except for a sale that
19 is subject to redemption, an assignment under the bill bars
20 junior interests in the property as if an assignment had not
21 been elected. If the sale is subject to redemption, the period
22 to redeem begins on the date of the sale resulting in the
23 assignment. An assignment under the bill shall not affect
24 the right of the judgment creditor to enforce a deficiency
25 judgment against other property of the judgment debtor nor bar
26 a subsequent rescission or execution against the property on the
27 judgment assigned by the assignee.